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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/519,526	03/06/2000	Yu Minakuchi	1924.63673	8003

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EXAMINER

FLYNN, KIMBERLY D

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 07/21/2004

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/519,526

Applicant(s)

MINAKUCHI ET AL.

Examiner

Kimberly D Flynn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

1. This action is in response to an Amendment filed May 3, 2004, Claims 1-10 are presented for further consideration.

Claim Rejections – 35 U.S.C. 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 4 and 7-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Glaser et al. (6,151,634).

In considering claim 4, Glaser et al. discloses an information distribution control system comprising:

a stream server (audio control center) that is connected to a network and includes a stream information distribution apparatus (for distributing a stream information capable of being reproduced in real time, and a first time-information addition control unit which adds a first time information (timestamp) to the stream information (audio data) (see Fig. 2A, col. 23, lines 28-31; col. 27, lines 55-58); and

a synchronous reproduction control unit (switch controller) which controls synchronization of the stream information and the storage-type information in the receiver in such a manner as to reproduce the stream information and the storage-type information in temporal synchronism with each other based on the first time information and the second time information (see Fig. 10, col. 23, lines 54-65; col. 24, lines 8-26).

In considering claim 7, Glaser et al. discloses an information distribution control method comprising the steps of:

adding a first time information to a stream information distributed from a stream information distribution apparatus (Fig. 1, Audio Control Center 120) to a receiver through a network (Fig. 1, Telephone Lines 130 and Modem 140), the stream information capable of being reproduced in real time (see Fig. 10, col. 5, lines 6-15, col. 23, lines 28-31, lines 65-67 and col. 24, lines 1-4; col. 27, lines 55-58);

adding a second time information to a storage-type information distributed to the receiver through the network (see Fig. 10; col. 23, lines 65-67 and col. 24, lines 1-4, lines 54-63); and

controlling the receiver through the network in such a manner as to reproduce the stream information and the storage-type information in temporal synchronism with each other based on the first time information and the second time information (see Fig. 10, col. 23, lines 54-65; col. 24, lines 8-26).

In considering claim 8, Glaser et al. discloses a computer readable recording medium which records an information distribution control program for making a computer execute a process comprising the steps of:

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adding first time information to a stream of information capable of being reproduced in real time and to be distributed from a stream server to the receiver through the network (see Fig. 10, col. 5, lines 6-15, col. 23, lines 28-31, lines 65-67 and col. 24, lines 1-4; col. 27, lines 55-58);

adding a second time information to a storage-type information to be distributed to the receiver through the network (see Fig. 10; col. 23, lines 65-67 and col. 24, lines 1-4, lines 54-63); and controlling said receiver through the network in such a manner as to reproduce the stream information and the storage-type information in temporal synchronism with each other based on the first time information and the second time information (see Fig. 10, High Speed Switches 1030 & 1050, Switch Controllers 1020 & 1060; col. 23, lines 54-65; col. 24, lines 8-26).

In considering claim 9, Glaser et al. discloses an information reproduction apparatus comprising:

a first receiver, which receives a stream of information with a first time information added thereto through a network and capable of being reproduced in real time (see Fig. 10, Receiver 300, Audio Buffers 315, Telephone Lines 130);

a second receiver which receives a storage-type information with a second time information added thereto through the network (see Fig. 10, Receiver 300, Metadata Buffers 1070, Telephone Lines 130); and

a synchronous reproduction unit which reproduces the stream information and the storage-type information in temporal synchronism with each other based on the first time information and the second time information (see Fig. 10, col. 23, lines 54-65).

In considering claim 10, Glaser et al. discloses a computer readable recording medium which records an information reproduction control program for making a computer execute a process comprising the steps of:

receiving a stream of information with a first time information added thereto through a network and capable of being reproduced in real time (see Fig. 10, col. 5, lines 6-15, col. 23, lines 28-31, lines 65-67 and col. 24, lines 1-4; col. 27, lines 55-58);

receiving a storage-type information with a second time information added thereto through a network (see Fig. 10, col. 23, lines 65-67 and col. 24, lines 1-4); and reproducing the stream information and the storage-type information in temporal synchronism with each other based on the first time information and the second time information (see Fig. 10, col. 24, lines 8-26).

Claim Rejections – 35 U.S.C. 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glaser et al. as applied to claim 4 above, and in further view of Kitai et al. (6,404,766).

In considering claim 1, Glaser et al. discloses an information distribution control system comprising:

a stream server (audio control center) that is connected to a network and includes a stream information distribution apparatus (for distributing a stream information capable of being

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reproduced in real time, and a first time-information addition control unit which adds a first time information to the stream information (audio data) (see Fig. 2A, col. 23, lines 28-31; col. 27, lines 55-58);

a second time information addition control unit which adds the second time information (timestamp) to the storage-type information (metadata) distributed to said receiver (receiver, metadata buffers) (see Fig. 10; col. 23, lines 65-67 and col. 24, lines 1-4) [note: time information addition control unit(s) are needed in order to add time information to the stream information (audio data) and the storage-type information (metadata) for synchronizing the two during transmission to the receiver]; and

a synchronous reproduction control unit (switch controller) that is connected to the network by way of a second network control unit and controls synchronization of the stream information and the storage-type information in the receiver in such a manner as to reproduce the stream information and the storage-type information in temporal synchronism with each other based on the first time information and the second time information (see Fig. 10, col. 23, lines 54-65; col. 24, lines 8-26).

Although Glaser et al. shows substantial features of the claimed invention, he fails to disclose a storage-type information server that is connected to the network for distributing storage-type information to the receiver through the network. However, Klemets et al., whose invention provides interleaved multimedia streams for servers and client computers coupled to each other by a diverse computer network, discloses such a storage-type information server that is connected to the network for distributing storage-type information to the receiver through the network (see Fig. 2, col. 4, lines 58-65). Therefore, given the teachings of Klemets et al., it

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would have been obvious for a person having ordinary skills in the art to modify Glaser et al. by incorporating a storage-type information server that is connected to the network for distributing storage-type information to the receiver through the network in order to provide 3rd party control storage information distribution, thus freeing up resource for the stream server.

In considering claim 2, Glaser et al. discloses an information distribution control system, wherein the stream server further includes a storage unit for holding the storage-type information (see Fig. 10, Audio Control Center 120, Metadata 1010),

wherein the second time-information addition control unit controls the stream server such that the second time information is added to the storage-type information (see Fig. 10, col. 23, lines 65-67 and col. 24, lines 1-4), and

wherein the stream server distributes the stream information with the first time information added thereto and the storage-type information with the second time information added thereto to the receiver through the network (see Fig. 10; col. 23, lines 26-28; col. 23, lines 65-67 and col. 24, lines 1-4).

In considering claims 3, 5, and 6, although Glaser et al. and Klemets et al. show substantial features of the claimed invention, they fail to specifically disclose a download unit, which downloads the storage-type information from a storage-type information server through the network to the stream server in advance of distribution of the storage-type information. Nonetheless, the downloading of the storage type information from the storage-type server to the stream server would have been obvious modification to the inventions disclosed by Glaser et al. and Klemets et al., as it is well known in the art to use a back-end server for supplying data to a front –end server in advance of the front-end server supplying the total data to a client. It would

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have been obvious for a person having ordinary skills in the art to modify Glaser et al. and Klemets et al. by incorporating a download unit which downloads the storage-type information from a storage-type information server through the network to the stream server in advance of distribution of the storage-type information in order to shield the client from any knowledge of a second server supplying information.

In considering claim 6, Glaser et al. discloses an information distribution control system comprising:

a stream server (audio control center) that is connected to a network and includes a stream information distribution apparatus (for distributing a stream information capable of being reproduced in real time, and a first time-information addition control unit which adds a first time information to the stream information (audio data), wherein the stream server further includes a storage unit for storing a storage-type information (see col. 23, lines 28-31; col. 27, lines 55-58);

a second time information addition control unit which adds the second time information (timestamp) to the storage-type information (metadata) distributed to said receiver; and

a synchronous reproduction control unit (switch controller) that is connected to the network by way of a second network control unit and controls said receiver in such a manner as to reproduce the stream information and the storage-type information in temporal synchronism with each other based on the first time information and the second time information (see col. 23, lines 54-65; col. 24, lines 8-26).

Additionally, Klemets et al. discloses a storage-type information server that is connected to the network for distributing storage-type information to the receiver through the network (see col. 4, lines 58-65).

Response to Arguments

6. Applicant's arguments filed May 3, 2004 have been fully considered but they are not persuasive.

- Applicant contends that Glaser does not disclose the synchronization by a reproduction control unit the controls the receiver through the network.

Examiner disagrees. Glaser discloses an audio-on-demand system, which is adapted to transmit synchronized metadata with audio data. The system also includes an audio control center, a switch controller, and a high speed switching device wherein the output of the switching device connects to the receiver within the subscriber PC via a communication line the connects the subscriber PC to the network. Because the audio control center, which is connected to the network, controls the synchronization of data the Examiner maintains that the synchronization is controlled through the network.

- Applicant contends that the metadata is not synchronized with audio data when it is transmitted by the system.

Examiner disagrees. Glaser teaches at col. 23, lines 14-16 that under another aspect of the present invention, limited "metadata" is also transmitted in synchronism with the audio data.

- Applicant contends that the audio control center in Glaser does not control synchronization and that control is left to the CPU in the subscriber PC. Applicant also contends that the synchronous control unit is not in the receiver, so the control is accomplished through the network.

Regarding claims 4 and 7-10, the claims are silent to whether or not the synchronous control unit is located inside or outside of the receiver. The claim as stated, recites “a synchronous reproduction unit that is connected to the network by way of a second network control unit and controls synchronization of the stream information and storage-type information.” The synchronous reproduction unit could very well be in the receiver connected to the network by way of a second network control unit (NIC card). It is not clear as to whether the synchronous reproduction unit is not in the receiver. Therefore, reference reads on the claimed limitations as stated.

- Applicant contends that the audio data in Glaser is not produced in real time.

Regarding claim 4, which states, “a stream information capable of being reproduced in real time”, the claim as written does not require that the stream information be reproduced in real time, only that it is capable of being reproduced in real time. Glaser discloses the distribution of audio data, which is capable of being reproduced in real time. Additionally, the claim states that the stream information is capable of being *reproduced* in real time. Glaser discloses an audio-on-demand communication system that provides real time playback of audio data, thus the audio data is capable of being reproduced in real time.

Conclusion

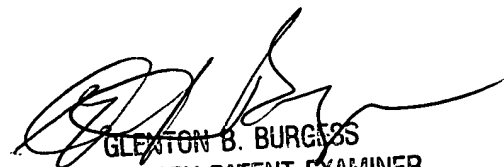
7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D Flynn whose telephone number is 703-308-7609. The examiner can normally be reached on M-F 8:30 - 5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 703-305-4792. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-3900.

Kimberly D Flynn
Examiner
Art Unit 2153

KF
July 7, 2004


GLEN B. BURGESS
SUPERVISORY PATENT EXAMINER
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